



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,410	04/13/2004	Robert M.M. Haddock	50200-00056	3245
25231 7590 04/28/2009 MARSH, FISCHMANN & BREYFOGLE LLP 8055 East Tufts Avenue Suite 450 Denver, CO 80237				
EXAMINER				
GILBERT, WILLIAM V				
ART UNIT		PAPER NUMBER		
3635				
MAIL DATE		DELIVERY MODE		
04/28/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/823,410

**Applicant(s)**

HADDOCK, ROBERT M.M.

**Examiner**

William V. Gilbert

**Art Unit**

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15, 31, 38-42, 44-46, 48-51 and 53-57 is/are pending in the application.
- 4a) Of the above claim(s) 7-11, 14, 15, 46, 48, 55-59, 62 and 63 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6, 12, 13, 49-51, 53, 54, 60 and 61 is/are allowed.
- 6) ☒ Claim(s) 31, 38-42, 45 and 64-67 is/are rejected.
- 7) ☒ Claim(s) 44 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

This is a first action following a request for continued examination. Claims 16-30, 32-37, 43, 47 and 52 are cancelled. Claims 1-15, 31, 38-42 44-46, 48-51 and 53-57 are pending. Claims 7-11, 14, 15, 46, 48, 55-59, 62 and 63 are withdrawn from consideration and claims 1-6, 12, 13, 31, 38-42, 44, 45, 49-51, 53, 54, 60, 60 and 64-67 are examined.

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05 February 2009 has been entered.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3635

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claims 31 and 64-67** are rejected under 35 U.S.C. 103(a) as being unpatentable over Dressler (U.S. Patent No. 7,127,852) in view of Hague.

Claim 31: Dressler discloses a clamp (Fig. 1) mounted on a rib (Fig. 15), the clamp having a first clamping member (10) that engages a first sidewall of the rib (engagement does not limit the member to actual contact with the rib), the clamping member also extends beyond the first rib (portion 14b extends beyond the rib) in a direction that is away from a first reference plane that contains the first and second base section, the first clamping member comprises a mounting flange (Fig. 1: 12) in the form of a cantilever that extends away from a second reference plane that is orthogonal to the first reference plane and extends along a length dimension of the first rib, an attachment mounting fastener (50) threadably engaged with the mounting flange, a second clamping member (22) that engages the second sidewall of the rib, wherein the second clamping member extends beyond the first rib (it extends in numerous directions,

see e.g. dashed arrow from attached Fig. 15) in a direction that is away from the first reference plane that contains the first and second base sections (it is offset from the plane and, as written, the member extends in numerous directions that read on the limitation), wherein the second clamping member is a separate piece from the first clamping member, the first end of the second clamping member engages an underside of the side mounting flange, a first fastener (25) located beyond the first rib in a direction that is away from the first reference plane (it is away from the plane in that it is offset from the plane, see above for interpretation) that contains the first and second base sections that is associated with the clamping members, activation of the fastener causes the clamping members to exert an inwardly directed force on the first rib, and the first fastener lacks a nut. Dressler does not disclose the shape of the panel as claimed. Hague discloses a panel with ribs (Fig. 1: 28) and base members (proximate 26) where the ribs have first and second sidewalls (36, 38) that extend away from the base section. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of duplication of parts to have this limitation because duplication of parts has no patentable significance unless a new

and unexpected result is produced. *In re Harza*, 274 F.2d 669 (CCPA 1960). See MPEP §2144.04.

Claim 64: as shown, the mounting flange is spaced further from the first reference plane that contains the base sections than an uppermost extreme of the first rib.

Claim 65: as shown the mounting flange is parallel with the first reference plane.

Claim 66: as shown, the first end of the second clamping member engages the underside of the mounting flange at a location that is spaced further from the first reference plane than an uppermost extreme of the first rib ("P" below, please note that "engages" is not limited to actual contact).

Claim 67: as shown, the first fastener extends through one of the first and second clamping members and is threadably engaged with the other of the first and second clamping members.

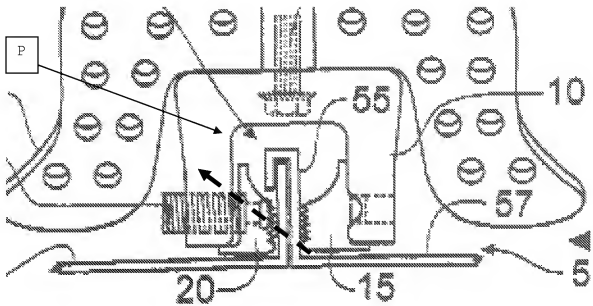


Figure 15 from Dressler

**Claims 38-42 and 45** are rejected under 35 U.S.C. 103(a) as being unpatentable over Haddock (U.S. Patent No. 2002/0088196) in view of Hague (U.S. Patent No. 4,467,582).

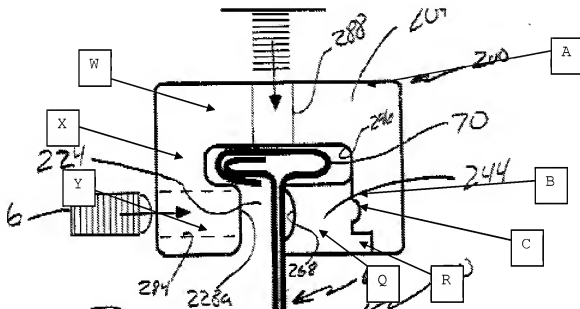


Figure 31 from Haddock

Claim 38: Haddock discloses a clamp and panel assembly comprising a panel assembly (Fig. 7c: 58) comprising a plurality of interconnected panels having base sections (58) and ribs (66) the ribs have sidewalls (proximate 66) that extend away from the base section, the sidewall has indentations (portion 66 and proximate 62 are indentations compared to portion proximate 70) and a clamp (200) mounted on a rib comprising a first clamping



member (204) that engages a first sidewall of the first rib in a direction that is away from a first reference plane (see above for the examiner's interpretation of these directional limitations) where the clamping member comprises a mounting flange ("A" above) in the form of a cantilever that extends away from a second reference plane as claimed, an attachment member (292) threadably engaged with the mounting flange, a second clamping member (244) engaging the second sidewall of the first rib and extends beyond the first rib (it extends in numerous directions, see above for the examiner's interpretation of the directional limitations), the second clamping member is a separate piece from the first clamping member and has a first end ("B" above) that engages an underside of the mounting flange and a second head (268) disposed in the second indentation and a first fastener (276) located beyond the first rib (horizontally) associated with the first and second clamping members (the limitation "associated" does not mean actual contact under the broadest reasonable interpretation) and is in addition to the attachment mounting fastener, wherein activation of the first fastener causes the clamping members to exert at least an inwardly-directed force on the first rib.

Haddock does not disclose the limitations of the panel having a plurality of base portions or ribs between the base

portions and the limitations of the ribs as claimed, though it does disclose the sidewalls are non-parallel (portion 70 is not parallel to portion indicated by 66) and the second side wall has an indentation (proximate 66 is an indentation in relation to portion 70). Hague discloses a panel with a plurality of ribs (Fig. 1: 28) and base members (proximate 26) where the ribs have first and second sidewalls (36, 38) that extend away from the base section in a non-parallel relation and further has a second indentation (42). It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of duplication of parts to have this limitation because duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669 (CCPA 1960). See MPEP §2144.04.

Claim 39: Haddock does not disclose the shape of the panel, however Hague discloses a hollow trapezoidal shaped rib. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of design choice to have this limitation because a configuration of an invention is a matter of choice that a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed subject matter

was significant. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). See MPEP §2144.04.

Claim 40: a first reference plane is associated with the plurality of base sections, the rib has a top wall (Hague: Fig. 7, proximate 58) that interconnects the first and second sidewalls and is in a spaced relation to the base sections (it is spaced vertically.)

Claim 41: the first sidewall has a first indentation (Haddock: proximate 66 and Hague: proximate 48) on the exterior surface of the first rib and the clamp has a first head (Haddock: proximate 228a) that is disposed in the indentation.

Claim 42: while the prior art of record discloses heads, it does not disclose the heads are convexly shaped. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of design choice to have this limitation because a configuration of an invention is a matter of choice that a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed subject matter was significant. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). See MPEP §2144.04.

Claim 45: the underside of the mounting flange of the first clamping member has a recess ("C" above) that is concave and

arcuately shaped, and the first end of the second clamping member is convex and arcuately shaped (proximate "C") and is disposed in the recess of the first clamping member where activation of the first member causes the second member to move relative to the first clamping member at least generally about the first projection (activation of member 276 would cause this action.)

***Allowable Subject Matter***

3. **Claims 1-6, 12-13, 49-51, 53, 54, 60 and 61** are allowed.

**Claim 44** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. The following addresses applicant's remarks/arguments dated 05 February 2009:

**Withdrawn claims:**

The examiner noted applicant's request to rejoin the withdrawn dependent claims that depend from allowed claims. The

examiner will rejoin the claims upon allowance of the application and all amendments are final.

**Claim rejection - 35 USC §103:**

Applicant's arguments with respect to claims 31 and 38 have been considered but are moot in view of the new ground(s) of rejection as applicant amended the claims.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571.272.6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./  
Supervisory Patent Examiner, Art Unit  
3635

/W. V. G./  
Examiner, Art Unit 3635  
/Basil Katcheves/  
Primary Examiner, Art Unit 3635